THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on : 23:02:2007

+ **WP (C) 13002/2006**

M/S ALCON BUILDERS & ENGINEERS PVT. LTD …Petitioner

-versus-

UNION OF INDIA …Respondent

Advocates who appeared in this case:
For the Petitioner : Ms. Anusuya Salwan
For the Respondent : Mr. Anil Nag with Mr Siddharth Singh

CORAM:-
HON'BLE MR. JUSTICE BADAR DURREZ AHMED

1. Whether Reporters of local papers may be allowed to see the judgment ?

2. To be referred to the Reporter or not ?

3. Whether the judgment should be reported in Digest ?

BADAR DURREZ AHMED, J. (ORAL)

1. The petitioner (Alcon Builders & Engineers Pvt Ltd) was enlisted as a Class-I electrical contractor with the Directorate General of Works, Central Public Works Department sometime in 1983. The enlistment of the petitioner as a Class-I electrical contractor was revalidated from time to time and for a further period of five years it was revalidated upto 07.08.2005 by virtue of an

Office Order dated 12.09.2000. The petitioner applied for further revalidation which was received in the office of the respondents on 15.07.2005. The request for revalidation was rejected by the impugned Office Memorandum dated 24.07.2006 in the following terms:-

> "The competent authority has considered the case of revalidation as the contractor had failed to secure any work of appropriate nature & amount as required as per Enlistment Rules 2001 under Para 21 (i), (ii) & (iii) during the revalidation of enlistment & provisional extension granted to the contractor.
> Accordingly the name of the Contractor M/s Alcon Builders & Engineers Pvt. Limited, B-1/51, Malviya Nagar, New Delhi-110017 is removed from the approved list of CPWD Contractors."

A plain reading of the aforesaid reasons for refusing revalidation of the petitioner indicates that the petitioner had allegedly failed to secure any work of appropriate nature and amount as required in terms of Enlistment Rules, 2001 under para 21 (i), (ii) & (iii) during the revalidation of enlistment and provisional extension granted to the contractor.

2. The learned counsel for the petitioner submitted that this reason is without any factual basis. First of all, she drew my attention to Rule 19 of the aforesaid Enlistment Rules which deals with revalidation of enlistment. The same reads as under:-

> **"19.0 Revalidation of Enlistment**
> The validity of initial enlistment of the contractor shall be as given in para 7.0. It shall, however, be revalidated on merits if desired by the contractor. Only the contractor who has secured at least one work of appropriate magnitude in CPWD, PWD

> (NCTD) or CCU of Ministry of Environment & Forests during the period of enlistment or last revalidation period of enlistment as the case may be, shall be considered for revalidation.
> A work completed/secured as an associate contractor of the main contractor, to whom a composite contract was/has been awarded, shall also qualify for consideration of revalidation."

Reading the said Rule 19.0, the learned counsel submitted that for a consideration for the purposes of revalidation, it was necessary that the contractor should have secured at least one work of an appropriate magnitude in CPWD, PWD(NCTD) or CCU of Ministry of Environment & Forests during the period of enlistment or last revalidation period of enlistment as the case may be.

3. In this context, she submitted that on 30.09.2003, the petitioner was awarded the work of LT Panel Board for a contract amount of approximately 17 lakhs. She referred to the document at page 44 which is a copy of a completion certificate issued by the CWPD on 13.06.2005 indicating therein the satisfactory completion of the said work. Apart from this, the learned counsel for the petitioner was able to point out that the CPWD had awarded two further works on 28.09.2005 and 09.09.2005 of the value of approximately Rs.2.24 crores and Rs.2.16 crores. Therefore, according to her, the contention of having at least one work of an appropriate nature and amount stood satisfied and the reason indicated in the impugned order dated 24.07.2006 stood belied. She further submitted that by virtue of a letter dated 23.08.2005 issued by the Superintending Engineer (C&M), CPWD, a temporary extension validation was

granted to the petitioner for enlistment with immediate effect upto 21.02.2006. Therefore, according to the learned counsel for the petitioner, even the statement that the petitioner had failed to secure any work during the provisional extension granted to the contractor is also factually incorrect. She submits that in view of these errors on the understanding of the factual position, the petitioner's enlistment has not been revalidated.

4. The learned counsel for the respondent attempted to justify the impugned Office Memorandum dated 24.07.2006 by stating that not only the quantity of work, but also the nature and quality of the work was required to be seen before revalidation was granted. However, he could not give any satisfactory reason for the incorrect statement recorded in the Office Memorandum that no work had been secured either during the revalidation period or during the provisional extension period granted to the contractor.

5. Considering the submissions made by the learned counsel for the parties, I am inclined to agree with those made by the learned counsel for the petitioner. The reason is very clear. The facts clearly belie the findings recorded in the Office Memorandum dated 24.07.2006. The petitioner had been awarded work during the revalidated period and also during the period of provisional extension. Even the quantity of the works was of sufficient magnitude. In

these circumstances, the impugned order is set aside. The respondents are directed to re-validate the enlistment of the petitioner within two weeks.

This writ petition stands disposed of. No order as to costs.

BADAR DURREZ AHMED
(JUDGE)

February 23, 2007
sd